

ORDINANCE NO. 355

AN ORDINANCE OF THE CITY OF HELOTES, TEXAS (CITY) ADDING ARTICLE III TAX ABATEMENT, SECTION 82-40 OLD TOWN HELOTES SPECIAL DISTRICT TAX ABATEMENT PROGRAM TO CHAPTER 82 OF THE CITY OF HELOTES CODE OF ORDINANCES; CREATING A PROPERTY TAX ABATEMENT PROGRAM WITHIN THE OLD TOWN HELOTES SPECIAL DISTRICT TO ENCOURAGE PRESERVATION AND ECONOMIC GROWTH BY PROVIDING A PROGRAM OF PROPERTY TAX ABATEMENTS TO DISTRICT PROPERTY OWNERS THAT WISH TO IMPROVE, REHABILITATE, MAINTAIN, OR CONSTRUCT FACILITIES OR STRUCTURES ON THEIR PROPERTY; DESIGNATING THE OLD TOWN HELOTES SPECIAL DISTRICT AS A REINVESTMENT ZONE, PURSUANT TO TEX. TAX. CODE ANN. SEC. 312.202; AUTHORIZING THE CITY ADMINISTRATOR TO PREPARE FORMS; DECLARING A PUBLIC PURPOSE; PROVIDING FOR SEVERABILITY; INCORPORATING RECITALS; AND SETTING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Helotes created the Old Town Helotes Special District on January 26, 2006 to create a more attractive, cohesive, and safe environment; to safeguard the City's heritage by preventing the spoliation of areas that reflect important elements of the City's cultural, natural, historic, and economic fabric; and to create favorable impressions of the City that provide enrichment for the citizens of the City and visitors thereto; and

WHEREAS, the City recently approved Ordinance No. 339, an Ordinance amending Chapter 98.72 of the Helotes City Code of Ordinances (Old Town Helotes Special District Regulations) and amending the official zoning map of the City in order to implement *The Old Town Helotes Plan*, on July 12, 2007; and

WHEREAS, the City approved *The Old Town Helotes Plan*, a master development, design, and preservation plan for the Old Town Helotes Special District, on July 12, 2007; and

WHEREAS, Ordinance No. 339 and *The Old Town Helotes Plan* provide clear policy, design, and preservation guidance to the City in its application of a tax abatement program to properties within the Old Town Helotes Special District; and

WHEREAS, pursuant to Tex. Tax. Code Ann. Sec. 312.002, the City designates, elects, resolves, and declares its desire to become eligible to participate in Tax Abatement and finds that such participation is in the public interest; and

WHEREAS, pursuant to Tex. Tax. Code Ann. Sec. 312.202 (a), the City has determined that the Old Town Helotes Special District, as described in *The Old Town Helotes Plan* and the map thereof meets the criteria for a reinvestment zone; **NOW**,

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HELOTES THAT THE CODE OF ORDINANCES IS HEREBY AMENDED BY ADDING A SECTION TO BE NUMBERED 82-40.

SECTION 1. AMENDMENT. That the Code of Ordinances, City of Helotes, Texas, is hereby amended by adding a new section to be numbered Chapter 82 Taxation, Article III. Tax Abatement, Section 82-40 Old Town Helotes Special District Tax Abatement Program attached as Exhibit "A" hereto which is incorporated herein by reference as if fully copied and set forth at length.

SECTION 2. INCORPORATION OF PLAN. All applicable provisions of Ordinance No. 339 and *The Old Town Helotes Plan*, (Plan) duly adopted by the City Council of the City of Helotes, Texas on July 12, 2007, including the City's official maps designating the boundaries of the Old Town Helotes Special District are incorporated herein by reference as if fully copied and set forth at length. The Plan shall be consulted, utilized, and made applicable to the approval of tax abatements and the regulation of development within the Old Town Helotes Special District.

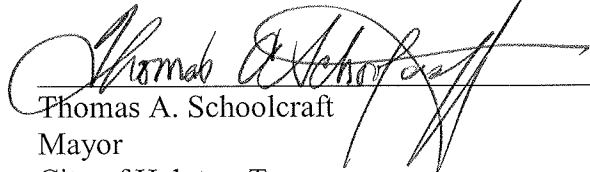
SECTION 3. NOTICE AND INCORPORATION OF RECITALS. It is officially found, determined, and declared that the meeting at which this Ordinance was adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, complies with Texas Government Code Chapter 551. The City Council finds the recitals contained in the preamble to this ordinance are true and correct and incorporates them as findings of fact.

SECTION 4. SEVERABILITY. Should any article, section, part, paragraph, sentence, phrase, clause, or word of this Ordinance, or any attachment thereto, for any reason be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provisions herein continue to be held unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

SECTION 5. EFFECTIVE DATE. This Ordinance shall become effective immediately after its passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
HELOTES, TEXAS, BY 4 AYES, 0 NAYS, 1 ABSTAIN THIS 11TH DAY OF
SEPTEMBER 2008, TO BE EFFECTIVE IMMEDIATELY.**

By:


Thomas A. Schoolcraft
Mayor
City of Helotes, Texas

ATTEST:

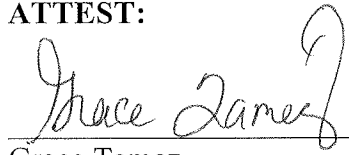

Grace Tamez
City Secretary
City of Helotes, Texas

EXHIBIT A.

Old Town Helotes Special District Tax Abatement Program

Chapter 82, Article III. Tax Abatement.

Sec. 82-40. Old Town Helotes Special District Tax Abatement Program.

- (a) Owners of real property located within the Old Town Helotes Special District (hereinafter referred to as “District”) as defined and described in Chapter 98.72 of the Helotes Code of Municipal Ordinances will be eligible to apply to the City Council for Tax Abatement of municipal ad valorem taxes (hereinafter referred to as “Abatement”). The District is designated as a reinvestment zone pursuant to Tex. Tax. Code Ann. Sec. 312.202 for a period of five years from the effective date hereof. Such designation may be renewed for an additional five years as provided by law.
- (b) An owner of real property that generates sales tax, or his or her agent may apply for up to a fifty (50%) percent real property tax abatement of municipal ad valorem taxes for real property improvements including the construction of new facilities and structures located within the District. All improvements must comply with Ordinance No. 339, The Old Town Helotes Plan, and Chapter 98.72 of the Helotes Code of Municipal Ordinances in their entirety. Abatements are limited to ten (10) years per approved project or until the amount received by the property owner through the Abatement equals the eligible project costs, whichever occur first. Subject to subchapter (f) hereof, a current or new owner may continue to receive the Abatement until the ten (10) year period expires. After an existing ten (10) year period expires, a new project for a ten (10) year Abatement period may be applied for. Abatement periods will not run concurrently. The City Secretary shall keep records of all approved work and allotted time periods. All information will be forwarded to the Bexar County Appraisal District and the Bexar County Tax Assessor-Collector or their designees.
- (c) Eligible projects must be ten thousand dollars (\$10,000.00) or more and may include the construction of new facilities and structures, or the expansion or modernization of existing facilities and structures. All construction shall be consistent with subchapter (b) hereof.
 - (1) Existing Structures: Interior improvements will be limited to framing (walls, floors, and ceilings), plumbing, electrical wiring, mechanical items (heating, cooling, and ventilation), and cabinetry and woodwork. Fixtures, decorative items, and personal property will not normally be eligible for consideration (See subsection (d) below). Costs for Abatement projects on existing structures will include materials and labor necessary for repairing, replacing, or additions to the structure. Additions must be like the original or as close to

the original as possible. The following types of construction will be considered for reimbursement:

- a. Structural walls
- b. Structural subfloors
- c. Structural ceilings
- d. Exterior doors
- e. Exterior paint
- f. Mechanical equipment
- g. Windows
- h. Any exterior brick veneers or treatments
- i. All electrical wiring
- j. Roofing (Arising from structural or integrity concerns)
- k. Gutter or roof drainage systems
- l. Façade items
- m. Architectural and engineering services, construction demolition, and clean up services if the work is directly related to work contained in the Certificate of Appropriateness
- n. Foundations
- o. Termite damage or treatment
- p. Security or fire protection systems
- q. Interior cabinetry or woodwork

- (2) New Facilities & Structures: Eligible expenses include any item considered a reimbursable expense for the expansion or modernization of existing facilities & structures, as provided by subsection c (1) (a – q) hereof; and such other and additional items of new construction consistent with the Ordinance No. 399 and *The Old Town Helotes Plan* approved in a Certificate of Appropriateness.

- (d) Documented replacement of historic fixtures will be considered eligible for Abatement, as determined by the City Council.

- (e) Ineligible costs include, but are not limited to, the following:

- (1) Overhead
- (2) Taxes
- (3) Postage
- (4) Administrative payroll
- (5) Equipment repairs
- (6) Tools
- (7) Portable restrooms
- (8) Lodging and meals
- (9) Items not directly related to the structural integrity or viability of a structure
- (10) Fixtures (except as provided by subsection (d) hereof)

- (f) A property owner currently receiving Abatement may apply for additional Abatements for new projects. If approved, new project Abatements will be credited to the property owner's Abatement account. After a current project has received an Abatement equal to the eligible costs, or the ten (10) year period has expired, a new Abatement may commence for an approved project not to exceed a maximum of ten (10) years. No more than one Abatement may be operative during any one ten (10) year project period.
- (g) Approved Abatements may be assigned to subsequent owners with the approval of the City's City Council after notice and public hearing.
- (h) If an approved structure for which an Abatement has been approved is totally or partially destroyed, or altered by the willful act or negligence of the owner or his or her representative, or if the owner fails to make the improvements required by the terms of the agreement providing for the Abatement, the owner shall be required to repay all previously abated ad valorem taxes after notice and hearing before the City Council. The City will to the extent permitted by law be entitled to a priority lien upon the previously abated real property to secure payment of the tax indebtedness, with such lien attaching immediately upon a declaration of indebtedness by the City Council.
- (i) An approved Abatement will apply to subsequent increases in the rate of taxation or assessed valuation.
- (j) Application and Approval Process. Prior to filing an application with the City Secretary for an Abatement, the prospective applicant shall:
 - (1) Provide a Certificate of Appropriateness from the City Council approving the project. Certify that the subject property is within the District and confirm the project has been constructed in conformity with the Certificate of Appropriateness.
 - (2) Certify the project has been completed. If the project has not yet been completed, the applicant must return to the City Council for approval.
 - (3) Application for Abatement will be completed by the property owner, or the owner's agent on the form provided by the City Secretary. Applications shall include all project cost receipts and an affidavit affirming the information contained in the application is correct. The City Secretary must receive completed Applications no later than thirty (30) days prior to public hearing by the City Council.
 - (4) Applications will be filed with the City Secretary. Each application will be signed and sworn to by the owner of the property and shall:
 - a. State the legal description of the property proposed for certification;

- b. Include a final and complete set of plans for the structure's restoration, rehabilitation, or construction;
 - c. Include a statement of costs for the restoration, rehabilitation, or construction;
 - d. Include a projection of the estimated construction, time and predicted completion date of the restoration, rehabilitation, or construction;
 - e. Include a detailed statement of the proposed use for the property; and
 - f. Provide any relevant information on the history of the structure, or access to the structure by the public.
 - g. Provide such other and additional information requested by the City to effectuate the purposes of this section.
 - h. Submit an application fee to the City of Helotes, Texas in the amount of \$100.00. Abatement applications may not be considered without payment of the application fee.
- (k) Prior to submission to the City Council, the City Administrator will prepare a report assessing the project, determining whether it was completed as approved in the Certificate of Appropriateness, and stating such other facts or information that may be useful to the City Council. Before submission of the written report and the Application to the City Council, the City Administrator will require the Building Inspector to inspect the property to ensure its compliance with all applicable codes.
- (l) The City Council shall hold a public hearing on all requests for Abatement upon the receipt of the completed Application and the Building Inspector's report.
- (m) Public notice shall include the date, time, and place of the public hearing, legal description of the property, and a general description of the applicant's request for Abatement. Notice shall be posted at City Hall and published in the official newspaper.
- (n) At the public hearing, the City Council shall determine if the completed project is substantially in compliance with the Certificate of Appropriateness. If the Council finds that additional information relative to the pending application is necessary for its review, the Council may postpone public hearing and action on the Application until such information is provided.
- (o) The City Council shall have the authority to approve, disapprove, or approve Abatement with conditions the Council deems necessary. The City Council shall not approve requests for Abatement where the project was completed prior to the adoption of this Article, where the applicant has not obtained a Certificate of Appropriateness, or where the applicant has not substantially complied with the requirements of the Certificate of Appropriateness.

- (p) Effective Date. The City Secretary shall, within ten (10) days, notify the Bexar County Tax Assessor-Collector of all approvals and prepare and provide all documentation required by the county. The Bexar County Tax Assessor-Collector will abate taxes for the property in accordance with this section. Approved Abatements shall take effect starting on January 1. (1st) of the year following approval and each year thereafter until the sum of abated taxes equals the eligible project costs, or until the expiration of the ten (10) Abatement year period.
- (q) Program Discontinuance. Should the City Council decide to discontinue the Abatement program, currently approved Abatements will be permitted to continue until expiration. Upon discontinuance the City Secretary will not accept new Abatement applications.
- (r) The guidelines and criteria adopted under this section are effective for two years from the date of the adoption of this section. During this period, the guidelines and criteria may be amended or repealed only by a vote of three-fourths of the members of the City Council.
- (s) The adoption of the guidelines and criteria by the City Council does not:
 - (1) limit the discretion of the City Council to decide whether to enter into a specific tax Abatement agreement; or
 - (2) limit the discretion of the City Council to delegate to its employees the authority to determine whether or not the City Council should consider a particular application or request for tax abatement; or
 - (3) create any property, contract, or other right including vested rights in any natural person or other legally recognized entity to require the City Council to consider or grant a specific application for Abatement.
- (t) Information provided to the City in connection with an application or request for tax abatement under this chapter that describes the specific processes or business activities to be conducted, or the equipment or other property to be located on the property for which tax abatement is sought, is confidential and not subject to public disclosure until the tax abatement agreement is executed. The information in the custody of a taxing unit after the agreement is executed is not confidential under this paragraph.
- (u) The City Administrator shall prepare appropriate forms for use with this section including Certificates of Appropriateness and Abatement applications.